

THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

AND

THE HON'BLE SRI JUSTICE GUDISEVA SHYAM PRASAD

C.M.A.No. 858 OF 2017

DATED 08TH FEBRUARY, 2018

Between:

Chiluveru Suresh

... Appellant

AND

Aitha Ramaiah and others

... Respondents

Counsel for the appellant : Sri Vedula Srinivas

Counsel for the respondents : Sri Ch.Ravinder

THE COURT MADE THE FOLLOWING

JUDGMENT: (*per Hon'ble Sri Justice C.V.Nagarjuna Reddy*)

This appeal arises out of order dated 11-07-2017 in G.O.P.No. 4 of 2015 on the file of the Court of III Additional District Judge, Asifabad (for short, 'the Court below'), whereby he dismissed the said O.P. filed by the appellant for the custody of his minor daughter.

2. At the hearing, Sri Vedula Srinivas, learned counsel for the appellant, apart from arguing the case on merits, advanced a contention which goes to the root of the matter, namely; that at the interlocutory stage, the Court below dismissed the O.P. based on the purported views of the minor child and without conducting regular trial. Sri Ch.Ravinder, learned counsel for the respondents, fairly conceded that the Court below has not conducted regular trial.

3. In our opinion, the Court below committed a serious error in not holding a full-fledged trial before dismissing the O.P. On this short ground alone and without going into the merits of the case, the order under appeal is set aside. The O.P. is remanded to the Court below for fresh disposal after trial within four months from the date of receipt of a copy of this order.

4. The appeal is accordingly disposed of.

5. As a sequel to disposal of the appeal, C.M.A.M.P.No. 1443 of 2017 shall stand closed as infructuous.

C.V.NAGARJUNA REDDY, J.

Date: 08-02-2018.

GUDISEVA SHYAM PRASAD, J.

JSK

